IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

Crl.MC.No. 650 of 2007()

ST.560/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER: ACCUSED

SAJEEV.P.P,
S/O.PAPPUKUTTY, AGED 47 YEARS,
PASHNATH HOUSE, KOTTAVATHIL,
KOTTAMURI (P.O), MALA,
WORKING AS LECTURER, SENIOR GRADE,
N.S.S COLLEGED, NENMARA.

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS: COMPLAINANT

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1. SULAIMAN, S/O.S.M.HUSSAIN,
SANTHINAGAR,
YAKKARA, PALAKKAD.

2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/03/2007 ALONG WITH CRL.M.C.NO.653 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.650 & 653 of 2007

Dated this the 9th day of March 2007

O R D E R

The petitioner face indictment in two prosecutions under Section 138 of the Negotiable Instruments Act. The petitioner is College Lecturer. According to the petitioner, he had no knowledge of the proceedings. He, therefore, was not able to appear before the learned Magistrate. The learned Magistrate, assuming that there is wilful default on the part of the petitioner to appear, has issued non-bailable warrants to procure the presence of the petitioner. The petitioner, hence finds himself in the unenviable predicament of warrants of arrest issued by the learned Magistrate chasing him. He is prepared to appear before the learned Magistrate and apply for bail. But the petitioner apprehends that the learned Magistrate may not consider his applications for bail on merits, in accordance with law and expeditiously. In these circumstances, the petitioner prays that directions may be issued under Section 482 Cr.P.C to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. I find absolutely no reason to assume that the learned Magistrate would not consider the applications for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006